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PATENT APPLICATION

ATTORNEY DOCKET NO. 200314581-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Cavello, et al.

Confirmation No.: 9081

Application No.: 10/728,674

Examiner: Sterling, Amy Jo

Filing Date: December 5, 2003

Group Art Unit: 3632

Title: Swivel Support Base Apparatus

Mail Stop Appeal Brief - Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450TRANSMITTAL OF REPLY BRIEFTransmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on October 14, 2005.

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 08-2025.

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Respectfully submitted,

Cavello, et al.

By David Rodack

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DEC 02 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of:

Cavello, *et al.*

Serial No.: 10/728,674

Filed: December 5, 2003

For: SWIVEL SUPPORT
BASE APPARATUS

Confirmation No.: 9081

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Examiner: Sterling, Amy Jo

HP Docket No. 200314581-1

RESPONSE TO EXAMINER'S ANSWERMail Stop Appeal Brief-Patents
Commissioner for Patents
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This is a Response to an Examiner's Answer mailed on *October 14, 2005*.**Further Response to Examiner's Answer**

Simply stated, the Applicants and the Examiner have a fundamental disagreement as to the Applicability of the cited art to the presently-pending claims. Applicants continue to disagree with the Examiner's positions as to all claims presently rejected. Applicants' Appeal Brief sets forth, from a substantive basis, the reasons why the cited portions of the cited art do not properly teach the features that are being claimed. Applicants stand behind the reasons already set forth in the Appeal Brief filed on August 1, 2005 with a qualification indicated in the last paragraph of this section of the response, and repeat and re-allege herein the positions set forth in the Appeal Brief.

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Applicants also wish to address several portions of the Examiner's answer. In the Response to Argument section (7) of the Examiner's Answer, the following response is asserted on page 4 (in addressing Applicants' comments regarding the limitations comprising "the foot pad configured with a material that enables rotation of the frame and impedes translational movement of the foot"):

This argument is unpersuasive in that it mischaracterizes the claim as recited and also is clearly met by the device taught in Janda. First of all, it is not clearly recited by the claim that it is indeed the responsibility of the "material" to provide the frame rotation and impede the translational movement of the foot. The claim specifically states, "a foot pad configured with a material that enables rotation and impedes translational movement..." and it is unclear as to whether the "enabling of rotation" and the "impeding of translational movement" are objects which are modifying the "foot pad" or are indirectly the action of the "material." It is clear that the claim language could be interpreted to mean while the foot pad is made of a material, it is the foot pad which enables rotation and impedes translational movement, both objects modifying the subject of the phrase.

Applicants respectfully submit that the Examiner's interpretation improperly renders the claim term "material" superfluous and thus meaningless, since clearly a foot pad or any object is made up of some type of material. By using the Examiner's reading, the term "material" can effectively be ignored, since all objects are made of a material of some sort. Additionally, Applicants note that the term "that" immediately follows "material" without any punctuation that would somehow cause a reader to construe the claim term in the manner proposed in the Examiner's Answer. Also, Applicants reiterate that it is not the material which impedes translational movement in *Janda*. Applicants respectfully note that there is a willingness to amend the claim language in a manner as desired by the Examiner should any further clarity resulting in such an amendment lead to allowance of the claims.

With regard to the discussion pertaining to the "foot" on page 4 of the Examiner's Answer, the Examiner's Answer provides as follows:

The applicant also argues that the "foot" as described cannot be construed to be a foot, because it is not shaped like a "foot".

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Applicants' argument presented in the Appeal Brief dated August 1, 2005 are reproduced in part below for convenience:

As another example of misconstruing of claim terms according to their ordinary meaning, the Office Action equates a gear reduction unit (44) to a "foot," as recited in claim 1. Again, as another example of one exemplary, ordinary meaning for the term "foot," Webster's on-line dictionary defines a "foot" as "something resembling a foot in position or use: a: as the lower end of the leg of a chair or table." In other words, there is an implication of support in this definition. Importantly, *Janda* provides (in col. 2, lines 65-68) that "[T]he dimensions of the unit are so designed that none of the weight of the deck 10 or the object which it supports will be exerted on the drive plate 38 or any portion of the drive unit 46."

In other words, the argument presented by Applicants are not necessarily one of whether the object in *Janda* is "shaped like a 'foot,'" but that the construing of the object in *Janda* as a foot misconstrues an exemplary ordinary meaning of a foot as "something resembling a foot in position or use." As is made clear in the above cited section from *Janda*, and *in contrast* to the Examiner's reading of *Janda*, "none of the weight of the deck 10 or the object which it supports will be exerted on the drive plate 38 or any portion of the drive unit 46." (emphasis added) In other words, clearly the drive unit 46 (construed as a foot by the Examiner) is not in or intended to be in a position of support.

With regard to the discussion pertaining to the "swivel," "secondary feet," and "pads," Applicants reiterate that the claim construction provided by the Examiner's Answer ignores the demonstrated ordinary usage of these terms. Also, Applicants note that the diagram provided in the Examiner's Answer is somewhat confusing in that the inserted (boxed) labels would at first glance appear to be the labels designated by the *Janda* reference. In fact, Applicants wish to point out that the *Janda* reference refers in the specification to the objects shown with boxes surrounding them (on page 3 of the Examiner's Answer) collectively as simply "casters."

With regard to the discussion pertaining to *Branch* on pages 5 and 6, Applicants acknowledge and concur with the Examiner's comment that rotation is allowed when force is

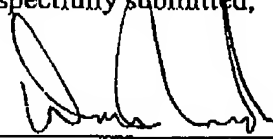
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not applied by a user, and respectfully submit that there has been no attempt to mischaracterize the device disclosed in *Branch*. In fact, the apparent principle of the device in *Branch* is that when loaded by a user pressing down on the dough, rotation is indeed hindered. However, even in light of the Examiner's recent elaboration on the teachings of *Branch*, Applicants still respectfully submit that claim 1 is allowable over *Branch*. First, Applicants wish to point out that "dough" is not a "device" as recited in independent claim 1. In addition, Applicants note that other limitations of claim 1 are notably absent in *Branch*, such as "secondary feet each having a pad of a lower frictional coefficient than the foot pad" and a "foot pad" (the final Office Action mailed on March 7, 2005 equates element 11 of *Branch* to an "anchor bolt," which is not a "foot" as that term is ordinarily used).

Again, Applicants refer to the arguments advanced in the Appeal Brief with respect to the individual elements and features of the various claims. Based upon the foregoing discussion, Based upon the foregoing discussion, Applicants respectfully request that the Examiner's final rejection of claims 1-14 be overruled by the Board, and that the application be allowed to issue as a patent with all pending claims 1-14.

No additional fees are believed to be due in connection with this Appeal Brief. If, however, any additional fees are deemed to be payable, you are hereby authorized to charge any such fees to deposit account No. 08-2025.

Respectfully submitted,



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Registration No. 47,034